

MINUTES OF THE ANNUAL WATER USERS MEETING
January 14, 2008
WATER DISTRICT 37, BIG WOOD RIVER
WATER DISTRICT 37M, LITTLE WOOD RIVER AND SILVER CREEK

ITEM #1 CALL TO ORDER

Watermaster Kevin Lakey called the Annual Water Users meeting, held at the Mason Lodge located in Shoshone, Idaho, for Water District 37, Big Wood River and Water District 37M, Little Wood River and Silver Creek, to order at 1:00 p.m. on January 14, 2008. After thanking everyone in attendance for coming, he asked for nominations for a chairman.

ITEM #2 SELECTION OF CHAIRMAN

Bud Purdy made the motion that Rob Struthers preside as the chairman for the January 14, 2008 annual meeting. Fred Brossy seconded the motion. Greg Lierman made a motion to close the nominations for Chairman. Mike Faulkner seconded the motion. There was no discussion. The motion for Rob Struthers to preside as Chairman passed unanimously.

ITEM #3 SELECTION OF SECRETARY

Chairman Struthers asked for nominations for secretary. Gary Osborne nominated Cyndi McCowan as the secretary of the January 14, 2008 annual meeting. Dave Cropper seconded the motion. The motion passed unanimously.

ITEM #4 APPROVAL OF THE MINUTES FROM THE 2007 ANNUAL MEETING

After those in attendance had a chance to read the 2007 minutes from the annual meeting, Chairman Struthers asked if there were additions or corrections to the minutes? Gary Osborne made the motion to accept the minutes from the 2007 Annual Meeting as presented. Bud Purdy seconded the motion. There was no discussion. The motion passed unanimously.

ITEM #5 APPOINTMENT OF CREDENTIALS COMMITTEE

Jerry Nance made a motion to appoint a credentials committee consisting of Nick Purdy, Carl Pendleton and Kevin Lakey. Nick Purdy asked why a credentials committee had been asked for? Watermaster Kevin Lakey told the group a credentials committee would be set up to verify water usage and ownership rights if there were a need for a vote. Greg Lierman seconded the motion. There was no more discussion. The motion passed unanimously.

ITEM #6 DISCUSSION OF PROPOSED RESOLUTION #14

Watermaster Kevin Lakey read the proposed resolution #14, Research to rebuild District records. The question was asked if there would be a Request for Proposal (RFP) submitted to appropriate parties to find a suitable person to undertake the studies? Jerry Nance replied there had been a meeting in which legal counsel had been present and had advised there would be no need for a RFP.

Bud Purdy asked how the \$90,000.00 shown in the 2008 budget was determined? Kevin said the \$90,000 had been submitted by a group of water users that were involved in the water adjudication. He said the group had realized as they proceeded with their work the districts records were not adequate. Nick Purdy felt there was not enough information provided in the resolution for that kind of funding without more details. Pepin Corso-Harris told the audience the Concerned Water Users group (CWU) had records to show what the research had cost to develop to that point. She went on to

say the district was missing information and had asked the researchers for missing information. She felt that kind of information was pivotal to the administration of water in the District; she said the senior water users were the ones that would suffer the most because of misuse. Fred Brossy said the resolution did not necessarily require the district spend \$90,000, but it authorized the advisory board to spend up to \$90,000 if the information that is submitted was deemed useful and appropriate. Jeff Nivens said even if it were not required it might be a good idea to obtain a RFP if the district was going to spend \$90,000. Bud Purdy asked how many years of records had been lost? Kevin said the district had records from about the last 10 or 15 years, but was missing records from the 1960's and 1970's. Bud said if the records had not been verified in the last years then maybe the district would be spending a lot of money that it didn't need to. The question was asked, what was considered a senior water right? Kevin replied, senior water rights were usually considered from 1880 through 1884. Nick Purdy asked Kevin's opinion, if he was in support of the resolution, if he was one of the creators of it and if he saw a need for it? Kevin replied that he was not a creator but felt that the spending portion of the resolution could be kind of a catch. Kevin said when David Murphy brought information to him, at times there were questions about how a water right had been transferred or moved around. Kevin felt some of the information was valid, but he wanted to have his thumb on it and what the district was paying for. Nick Purdy felt if it was needed, then there should be someone employed under Kevin's authority rather than some private contractor because who would they be accountable to? Kevin said the researcher(s) would be accountable to the advisory board, the information and billings would be submitted to the watermaster who would in turn present them to the advisory board for review. Carl Bontrager asked if the group that wanted to do this; were they also water users in the district? He asked if they would have a biased approach to the research? He also asked if the whole district would be paying for the research they had been doing or was it supplemental investigation that was applicable to the district? Jerry Nance commented that Big Wood Canal Co. and a group in the Upper Valley had been doing some investing. He said they had put a budget together with the group in which the canal company had committed \$100,000 and the group had a number they were committing also, so he felt it was two different issues. Mike Faulkner said there was an effort to re-establish the records of the district that had been destroyed in the fire. He said there had been discussion concerning conveyance loss and how to get a handle on it.

Sharon Hubler (Idaho Parks Foundation) said her perception was that the information the group was collecting was not proprietary and should be thoroughly examined. She said there should be a clause that the researcher(s) should not be employees of the district. She went on to say there could be a person hired to work year round, maybe someone who had been with a state agency, for about \$30,000 a year and could work with GIS and water rights. She felt the information belonged to everyone.

Larry Schoen said looking into records and patterns of use; he felt there was a whole host of issues the vague language of the resolution suggested. But he wanted to hear Allen Merritt express his perspective of the resolution. He went on to say, appropriate administration of water was in everyone's interest. There was acknowledgment everyone did not have all the resources needed to make the administration of water rights better in the Upper Valley.

Allen Merritt said he had spoke to the Deputy Attorney General before the last advisory board meeting (12-18-07). He said if the research was appropriate for the delivery of water, but if it were information gathered for the ongoing SRBA litigation, it was probably not appropriate for the water district.

Nick Purdy said if the researcher were a person that fell under Kevin's authority because Kevin had some of the records and he knew what he needed that would be more effective and he felt it could be a cheaper way to do it. Nick said he would be for the resolution if Kevin said it was needed. He wanted to see it done right or it may be totally useless.

Pepin Corso-Harris commented there was a lot of information available at the Courthouse in Blaine County. She said she wanted to make it clear that the research that would be done was separate from the objections in the SRBA.

Brian Brockette asked if the information was necessary for the delivery of water? Kevin said the information that he had was from the last 10 to 15 years. If there were transfers made with water rights that were inappropriate, maybe volumes of water per acre of land or changes in purpose of use. Basically the information available at the office at the time was warranty deeds and change of ownership records, but not a lot of the old information on change of purpose of use. Brian asked if the transfers had been done by the IDWR? Kevin said the issue of transfers had fallen under approved transfers. He said there was a statute that established once a transfer was made, it could not be disputed, but volumes of water or purposes of use could be. Allen Merritt said the delivery of the water by the watermaster was based on the decrees and the transfers approved by the IDWR. In the adjudication there was a provision for accomplished transfers. The Dept. made recommendations based on some of those changes. If there were changes made by 1987 by an unrecorded transfer it could have been recommended in the adjudication as an accomplished transfer. He said in the SRBA the slate would be wiped clean and would give Kevin a new list of rights and how they should be delivered and where they would be delivered. He said that was the purpose of the adjudication. Brian Brockette asked if the amount of money that was being asked for, was tangible to the administration and enforcement of water? Larry Schoen said to Allen Merritt, a lot of these things had been derived from people's inability to research their own records. He asked if it were noted in the SRBA when there had been an accomplished transfer? Did the people who looked at them and all the people involved have the opportunity to comment under the SRBA; was everyone aware of the facts and details of the transfers that had taken place? So people had a chance to get a truer picture, theoretically, of appropriate water use. He said he thought a lot of people felt that not enough information had been made available to the public.

Carl Bontrager asked Kevin, after the adjudication was completed, would he be administering water rights based on what the state had determined the water rights to be? Kevin replied yes. Carl asked Kevin if he would be starting out with a clean slate at that point? Kevin replied yes.

Nick Purdy made the comment that he thought this request was about two years to late. He said the decision of the judge would be how the water was delivered. He asked if the court would be reopened if there were new information? Pepin Corso-Harris asked Kevin what information had already been brought to his attention that would change the way he would administer the water in the upper basin? Kevin explained some examples of cumulative water and how it worked with the states language in the decrees. He said he felt some water rights had been found that had not been administered properly. He went on to explain Nature of Use. He said there had been concern that some old mining water rights that were considered non-consumptive had been changed somehow to irrigation, he didn't know as an administrator how those

changed. He said these were the two areas that he was concerned with and if they were missed in the SRBA they could be lost forever.

Larry Schoen stated the language of Resolution 14 needed improvement; he said he felt the resolution should be clear that the contractor would be under the supervision of the watermaster, pending finalization of a contract. He commented to Nick Purdy that he felt the effort was better late than never. He said the effort was probably not handled as timely and as quickly as it should have been. But the budget of the Watermaster and the people who would normally be looked to for performance of these activities, with the value of water, these people were under funded. He felt it was time to do a better job.

Nick Purdy felt that the problem was enforcement and maybe the money for the resolution should be used to fund one or two more deputies.

Jerry Nance said an additional \$25,000 had been added to the budget by the advisory board for enforcement, he said there was another resolution to be presented, which was to ask for interim administration. Since it was highly unlikely that interim administration would happen in 2008 there wouldn't be enough support for the watermaster. But if interim administration did happen, then another person for enforcement would be what the advisory board wanted to see.

Robin Lezamiz made the motion to go forward with Resolution #14, Research to Rebuild District Records. Bill Yager seconded the motion. Chairman Struthers asked for discussion. Bill Arkoosh asked if both companies would pay equally? Watermaster Kevin Lakey stated as the resolution read, 2/3 would be charged to Big Wood and 1/3 to Little Wood. He said the Big Wood Canal Co would be assessed roughly 60% of the cost of each of those. The question was asked if the information gathered was to challenge or enforce the adjudication? Pepin Corso-Harris said she felt it was a matter of interpretation, because she said the way she read the resolution it was for replacement of records. She went on to say District 37 did not hold water and could not object to water rights and had nothing to do with the SRBA process. They were two totally separate issues. Nick Purdy asked if a specific person had been determined for hire? He said information he had received in the mail specified Dr. Pabich. Kevin said the information that was mailed was a draft and the Advisory Board was not comfortable to select a specific person at the time so the language was changed. There was no more discussion. Chairman Struthers said it had been moved and seconded to vote for the adoption of Resolution #14, Research to Rebuild District Records. It was not determined how many voice votes were Yea or Na. Jerry Nance asked for a credentials committee for determination of the vote.

The meeting was recessed for voting on Resolution #14. The credentials committee (Nick Purdy, Carl Pendleton and Kevin Lakey) counted the votes. The audience discussed other issues until as the credentials committee counted the votes of Resolution #14.

DISCUSSION OF PROPOSED RESOLUTION #15

Watermaster Kevin Lakey read the proposed Resolution #15, Interim Administration. Larry Schoen asked if the District could file a motion to the SRBA court? Allen Merritt said the court would be reluctant to allow the District to file a motion for interim administration, he said the director could file the motion but probably would not because there had been so many objections in District 37. Chairman Struthers asked why move forward if it wasn't going to happen? Bud Purdy asked if it would be a disadvantage if the resolution were passed? Chairman Struthers didn't feel it would be a disadvantage but felt it could be helpful if it were in place for the time when it was

needed. Nick Purdy said his understanding was the district would administer the rights the way the court recommended them. He said if the rights were objected to as in his situation were there were mistakes, he felt it would be a disadvantage because in his case some of his rights had language that was highly restrictive. He felt it would be a disadvantage because the IDWR had admitted there were mistakes and it would take some time to get the situations cleaned up. Pepin Corso-Harris said after 20 years of nearly no enforcement she was ready for some ground to stand on even to use the decrees that were in place, even if they were going to change after the SRBA court's decision. She said she would like to see some enforcement and felt this would give it some backbone.

Fred Brossy made a motion to adopt Resolution #15, Interim Administration. Robin Lezamiz seconded the motion. There was no more discussion. In a voice vote there were more Yea's then Na's. Chairman Struthers said he believed the motion passed.

ITEM #6 ADOPTION OF RESOLUTION #14

RESULTS OF VOTING ON RESOLUTION #14, REBUILDING OF DISTRICT RECORDS. Watermaster Kevin Lakey read the results of the voting for Resolution #14. He said there were 202,589.51 yes votes and 22678.29 no votes. The resolution passed.

Nick Purdy made a motion to re-adopt the resolutions of 2007 for 2008 with corrections to reflect the days of hire for the Watermaster and Secretary. Dave Cropper seconded the motion. Jeff Nivens asked about the minimum \$40.00 charge, he said he would be willing to pay more if it would help with enforcement. Kevin explained how the minimum charge was calculated. Jeff asked if there was a way to raise the minimum charge? It was determined there was a statue that specifically spelled out the limit of the minimum charge. There was no more discussion. Chairman Struthers asked for a vote on Resolutions 1 thru 13, the motion passed unanimously.

It was determined that Item #7 Report of the Credentials Committee had taken place earlier in the meeting.

ITEM #8 ADOPTION OF THE 2008 DISTRICT 37 BUDGET

Watermaster Kevin Lakey discussed the four budgets that had been prepared depending on the outcomes of the resolution voting. He explained that there had been a budget prepared that included \$25,000 for the hiring of another deputy above Magic for enforcement in a 6-month position. There was another budget prepared including \$25,000 for another deputy in a 6-month position and \$90,000 for research. In the discussion it was determined that if Interim Administration did not happen or if another deputy was not hired the \$25,000 would be considered carry-over for 2009.

Fred Brossy made the motion to accept the proposed budget for District 37, which included \$25,000 for an additional deputy above Magic and \$90,000 for research. Bill Yager seconded the motion. There was no more discussion. The motion passed unanimously.

ITEM #9 ADOPTION OF THE 2008 DISTRICT 37M BUDGET.

Bud Purdy made a motion to accept the proposed budget for District 37M, which included \$25,000 for an additional deputy above Magic and \$90,000 for research. Larry Schoen seconded the motion. Nick Purdy asked if the advisory board had the flexibility not to hire another deputy and was the motion the same for both districts? Kevin Lakey explained that the budget presented included both districts; the hiring of a new deputy would only be funded by District 37. There was no more discussion. The motion passed unanimously.

ITEM #10 SELECTION OF ADVISORY BOARD MEMBERS

Advisory board member Bud Purdy stated he wanted to tender his resignation. He said he had served on the board for 50 years and asked that Nick Purdy be considered for selection to replace him on the board.

Chairman Struthers asked if there were any other nominations? Pete Van Der Meulen nominated Gerald Bashaw. A.W. Molyneux seconded the motion. Bud Purdy nominated Nick Purdy to serve in his place as the Upper Silver Creek representative. Dave Cropper seconded the motion. Pete asked how the voting was determined by water or voice vote? Chairman Struthers replied he thought by voice vote. Kevin asked Allen Merritt (IDWR) to explain. Allen told the audience if it were determined by voice vote each person in attendance would have one vote, but if one person asked for the credentials committee it would be determined by water. He said only one person needed to ask for the credentials committee. Jeff Nivens asked if there was a limit to the number of persons to serve on the board? Fred Brossy said there had been less than eight members until two members were added for Hydro representation. Jeff Nivens made the motion to elect two members to serve as the Upper Silver Creek representatives on the advisory board, those being Nick Purdy and Gerald Bashaw. Dave Cropper seconded the motion. A voice vote was taken for Nick Purdy; there was no one against. A voice vote was taken for Gerald Bashaw; there was no one against. Chairman Struthers asked for discussion. Larry Schoen said the memberships had been laid out by district with the appropriate level of representative for each area, he said it would be hard to vote on two persons serving one district, but perhaps a member-at-large would work since there was a lack of information. Jeff Nivens asked if the position was advisory in nature, why it couldn't work because they could be removed it didn't. Chairman Struthers asked if everyone wanted to vote by voice vote or a motion that would allow both of them to serve? John Stevenson asked for a credentials vote. John Arkoosh stated if more positions were added it would disturb the balance in the district by adding another person to one area. He said he felt there were two qualified candidates and it was hard for people to choose. Chairman Struthers suggested a hand vote. Chairman Struthers asked all in favor of Gerald Bashaw? 11 hands were shown for Gerald Bashaw. Chairman Struthers asked all in favor of Nick Purdy? 16 hands were shown for Nick Purdy. It was determined that Nick had won the Upper Silver Creek advisory board position.

John Stevenson reminded the audience that he had asked for a credential vote before the hand vote was taken. Allen Merritt (IDWR) reiterated that if even one person asked for a credentials vote the voting was to be done in that manner. The meeting recessed for the credentials voting.

When the meeting reconvened, Watermaster Kevin Lakey announced the voting as follows for the Upper Silver Creek representative:

Gerald Bashaw	151,188.96 votes
Nick Purdy	31,943.25 votes

Gerald Bashaw had won the vote.

Gary Osborne made the motion to confirm the advisory board members as follows:

<u>Bill Arkoosh</u>	<u>Little Wood Hydropower</u>
<u>Fred Brossy</u>	<u>Lower Silver Creek/Little Wood River</u>
<u>Bob Esterbrook</u>	<u>American Falls Reservoir District #2</u>
<u>Jerry Nance</u>	<u>Big Wood Canal Company</u>
<u>Gerald Bashaw</u>	<u>Upper Silver Creek</u>
<u>Howard Morris</u>	<u>Big Wood Below Magic Reservoir</u>
<u>Robert Struthers</u>	<u>Big Wood Above Magic Reservoir</u>
<u>Allen Koyle</u>	<u>Big Wood Hydropower</u>

Greg Lierman seconded the motion. There was no discussion. The motion passed unanimously.

ITEM #11 Adjournment

Gary Osborne made the motion to adjourn the meeting. Greg Lierman seconded the motion. The motion passed unanimously. The meeting was adjourned at 4:15 PM.

Respectfully,

Cyndi McCowan
Sec./Treas.
Water District 37 & 37M

Fred Brossy
Chairman